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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,046	06/24/2003	Fritz Hosel	32368-189830	8149
26694	7590	06/30/2005	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998			VALENTIN, JUAN D	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,046	Applicant(s) HOSEL ET AL.	
	Examiner Juan D. Valentin II	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☒ Claim(s) 6, 10, 14 and 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/2003 & 06/2003</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "imaging devices are offset from one another in the working direction" of claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because the abstract must be a brief narrative of the disclosure as a whole in a single paragraph of 150 words or less (emphasis added). Correction is required. See MPEP § 608.01(b).

Claim Objections

4. Regarding claims 14 and 27, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Therefore these claim limitations add no further patentable weight to the claim.
5. Regarding claim 6, the phrase "consists essentially of" renders the claim indefinite because it is unclear whether the limitations are both part of the claimed limitation or if only one of the claimed limitations is needed? Therefore these claim limitations add no further patentable weight to the claim.
6. Claim 10 recites the limitation "the common evaluation device" in the last line. There is insufficient antecedent basis for this limitation in the claim. Claim 10 depends from claim 9, but

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would be in proper antecedent form if amended to depend from claim 9 that claims the common evaluation device.

7. Regarding claim 14, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Therefore these claim limitations add no further patentable weight to the claim.

8. Regarding claim 14, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Therefore these claim limitations add no further patentable weight to the claim.

9. Claim 27 recites the limitation "increases as the distance between the objective and fiber sliver decreases" in the last three lines. There is insufficient antecedent basis for this limitation in the claim. Examiner is unsure as to what objective and fiber sliver the claimed limitation is referring too? Applicant is asked to please amend the claim to show proper antecedent basis for the claimed limitations. Examiner will examine the claim to the best understanding of the claim in view of applicants originally filed disclosure.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The broad recitation wherein the fiber apparatus is "an opener and cleaner" is broad

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and indefinite. Applicant is asked to more clearly describe the claimed subject matter, it unclear what a opener and cleaner is? Narrower claim limitations better describing what “an opener and cleaner” is should be added or the claim canceled. Examiner will examine the claim to the best understanding of the claim in view of applicants originally filed disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1- rejected under 35 U.S.C. 102(b) as being fully anticipated by Leifeld et al. (USPN ‘559, hereinafter Leifeld).

Claims 1-3 & 5-9

Leifeld discloses in conjunction with Fig. 1, an apparatus on a textile fiber processing machine for inspecting and evaluating textile fiber material 25 (col. 1, line 64-col. 2, line 2), the apparatus comprising an opto-electronic system 12, 13, 14, & 24 for scanning the textile fiber material, there being relative movement between the opto-electronic device and the fiber material in a working direction and the fiber material having a working width extending transversely to said working direction, the opto-electronic system comprising two or more imaging devices 12 (col. 4, lines 1-3) which are displaced from one another across the working width of the fiber material and which are in communication with a common image-evaluation device (col. 1, line 64-col. 2, line 33 & col. 3, line 52-col. 4, line 22). The camera 12 is mounted

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on transverse head 11c, Leifeld discloses that a plurality of cameras can be connected to image processing device 16 as shown above. It is inherent within the reference that the plurality of cameras connected to image processing device 16 would be mounted on transverse head 11c displaced along the working width of the textile fiber material. Leifeld as applied above further discloses in which the opto-electronic system is stationarily arranged and, in use, the fiber material is moving along the working direction (col. 4, lines 56-60). The camera 12 is mounted on transverse head 11c, Leifeld discloses that a plurality of cameras can be connected to image processing device 16 as shown above. It is inherent within the reference that the plurality of cameras connected to image processing device 16 would be mounted on transverse head 11c displaced along the working width of the textile fiber material. Leifeld as applied above in conjunction with Fig. 1, discloses a camera module 12 with a sensor and further camera components located remotely from said module (Fig. 1, ref. 14). It is inherent that the camera module 12 will comprise a power supply in order to power the camera. The imaging devices are connected to a common evaluation device (col. 4, lines 1-3).

12. Claims 1-3 & 5-12 rejected under 35 U.S.C. 102(b) as being fully anticipated by Shofner et al. (USPN '145, hereinafter Shofner).

Claims 1-3 & 5-12

Shofner in conjunction with Figs. 8 & 9 discloses an apparatus on a textile fiber processing machine for inspecting and evaluating textile fiber material 134, the apparatus comprising an opto-electronic system for scanning the textile fiber material 134, there being relative movement between the opto-electronic device 130, 132, 136, & 138 and the fiber

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material 134 in a working direction and the fiber material 134 having a working width extending transversely to said working direction, the opto-electronic system comprising two or more imaging devices 130 & 132 which are displaced from one another across the working width of the fiber material and which are in communication with a common image-evaluation device 144. Shofner further discloses in which the opto-electronic system is stationarily arranged and, in use, the fiber material is moving along the working direction. Shofner discloses a camera module with a sensor (CCD) and further camera components 153, 154, 160, 159 located remotely from said module. It is inherent that the camera module will comprise a power supply in order to power the camera. The imaging devices are connected to a common evaluation device 144. Shofner further discloses in which there are two or more intermediate evaluating devices 140 & 142, each intermediate evaluation device 140 & 142 being in communication with a respective imaging device 130 & 132 and the intermediate evaluating devices being in communication with the common evaluation device 144. The device of Shofner is "suitable" for maintaining a continuously moving body of sliver. Shofner further discloses the entire width of the fiber material 134 can be monitored simultaneously 150 (col. 7, line 34-col. 8, line 62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4 & 13-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Leifeld.

Claim 4

It is the position of the Office that even though the reference of Leifeld does not specifically disclose the imaging devices are offset from one another in the working direction, it does outline the ability to using a plurality of cameras (col. 4, lines 1-3). In light of the applicants disclosure, there is no critically distinguishing camera offset feature in the applicants disclosure that exemplifies novelty over prior art disclosure. Applicant discusses on page 5, lines 24-25 in the originally filed disclosure that cameras can be arranged column-wise and side by side, but there is no further discussion as to how this camera arrangement actually improves over prior art disclosure or what problem this particular camera arrangement solves. As discussed above, Leifeld discloses the use of a plurality of cameras, therefore producing the same results as the applicants limitation, therefore the reference of Leifeld reads on applicants claimed limitation.

Claim 13

Leifeld discloses moving a sample stage in relation to a stationary camera. It would have been obvious to one having ordinary skill in the art at the time of the claimed invention was made to keep the sample stage stationary and to move the camera in place of the stage, since it has been held that a mere reversal of the essential working elements of a device involves only routine skill in the art. It is inherent that if the camera 12 is to be programmable to “*scan stepwise a programmable measuring range*” (emphasis added) that the camera and/or stage need to move to perform the disclosed scan.

Claims 14-26

Leifeld in conjunction with Fig. 2 discloses an apparatus on a spinning machine for inspecting and evaluating textile fiber material (col. 1, line 64-col. 2, line 2), in which across the width of a textile machine a fixed opto-electronic system is provided which scans the moving fiber material and converts the measured values into electronic signals, the system being communication with an image-evaluating device 14 which evaluates the raw data of the camera 12, characterized that two or more cameras are provided side by side (col. 4, lines 1-3, col. 1, line 64-col. 2, line 33, & col. 3, line 52-col. 4, line 22). It is obvious to someone of ordinary skill in the art that as the distance between the fiber material and the camera(s) decreases, the number of cameras must increase because as the said distance decreases, the field of view of each camera on the fiber material decreases, and one of ordinary skill in the art at the time of the claimed invention would know that in order to compensate for the lost field of view, more cameras would have to be added to the image capture system. Official notice taken. It is the position of the Office that it is obvious and well known to someone of ordinary skill in the art at the time of the claimed invention to place the claimed measuring apparatus in the entrance and exit of textile processing machines, for example, in order to make sure that the fiber length and nep number are at desired values which is achieved by comparing both values to each other and those measurements stored in a desired memory, if the fiber length is too short, then adjusts to the working mechanisms within the machine are automatically made based on the compared values (Fig. 1, col. 1, lines 13-20, 35-39, col. 1, line 64-col. 2, line 33).

Claim 27

Leifeld in conjunction with Fig. 2 discloses an apparatus for inspecting and evaluating a fiber material found in textile technology (col. 1, line 64-col. 2, line 2), in which moving sensors scan the stationary fibre material and the measured values are converted into electrical signals, the sensors being in communication with an image-evaluating device, which evaluates the raw data of the sensors, wherein three or more opto-electronic sensors are provided side by side (col. 4, lines 1-3, col. 1, line 64-col. 2, line 33, & col. 3, line 52-col. 4. line 22). Leifeld discloses moving a sample stage in relation to a stationary camera. It would have been obvious to one having ordinary skill in the art at the time of the claimed invention was made to keep the sample stage stationary and to move the camera in place of the stage, since it has been held that a mere reversal of the essential working elements of a device involves only routine skill in the art. It is inherent that if the camera 12 is to be programmable to *"scan stepwise a programmable measuring range"* (emphasis added) that the camera and/or stage need to move to perform the disclosed scan. It is obvious to someone of ordinary skill in the art that as the distance between the fiber material and the camera (objective) decreases, the number of cameras must increase because as the said distance decreases, the field of view of each camera on the fiber material decreases, and one of ordinary skill in the art at the time of the claimed invention would know that in order to compensate for the lost field of view, more cameras would have to be added to the image capture system.

Conclusion

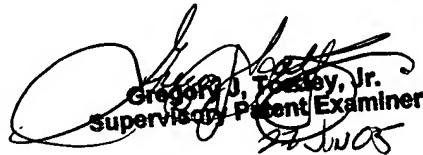
"Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made by the Board of Patent Appeals and Interferences. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well known statement was made."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan D. Valentin II whose telephone number is (571) 272-2433. The examiner can normally be reached on Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Juan D Valentin II
Examiner 2877
JDV


Gregory J. Pasky, Jr.
Supervisory Patent Examiner
22 JUN 05